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C O N F I D E N T I A L SECTION 01 OF 03 SANTO DOMINGO 000236

SIPDIS

DEPARTMENT FOR PRM/JESSICA YUTACOM AND NICOLE GREEN
DEPARTMENT PLEASE PASS TO USOAS FOR DANIEL CENTO

E.O. 12958: DECL: 02/23/2019

TAGS: [PHUM](#) [PREF](#) [HA](#) [DR](#)

SUBJECT: DOMINICANS BEGIN WORK ON IMPLEMENTING THEIR 2004
IMMIGRATION LAW

REF: A. 08 SDO 1110

[1](#)B. SDO 0183

Classified By: Charge D'Affaris Roland Bullen for Reasons 1.4(b) and (d
) .

[1](#)1. (SBU) SUMMARY: The Dominican government recently held a summit on migration issues that resulted in recommendations for regularizing the large undocumented population in the country. The day following these recommendations, the country witnessed a rare coordination between four departments (Interior and Police, Migration, Foreign Ministry, and the Electoral Commission) to pull together an international forum on civil registration, identity and Migration. The focus of the meeting was initially vague and appeared likely to continue to be the government's public focus on reducing (and eventually eliminating by 2015) the number of undocumented Dominicans. But as soon as the doors closed on the public, the focus shifted decidedly to the "Haitian problem". END SUMMARY.

Background

[1](#)2. (U) The still controversial law 285 was enacted in 2004. Although this legislation contained sweeping migration reform, including visa classes for migrants and visitors, and regularization for foreigners living in the DR, this law would become infamous for its provision denying nationality to children of illegal migrants, and the retroactive application thereof (Ref A). Law 285 required the President to enact the regulations for its implementation. Although the denial of nationality to children of illegal migrants saw almost immediate application, the section providing for regularization of illegal migrants in the country is still awaiting implementation. On February 9, a national summit (Ref B), which included a working group on migration, presented President Fernandez with a plan for regularization.

National Summit

[1](#)3. (SBU) Under the proposed plan, persons born to foreign parents before 1950 would be granted Dominican naturalization. Those born in the country between 1951 and 1990 would be granted permanent residency, and those born between 1991 and August 14, 2004 would be granted temporary residence. Those born after the implementation of law 285 are asked to register in the Foreigners' Book (Libro de Extranjeria), but would not be granted any status under the recommendations. Aside from requiring proof of birth through some record of registration, those seeking regularization would also need to show that they qualify for immigration

under the standard immigrant guidelines. These guidelines are included in law 285 and are similar to those required of U.S. immigrant visa applicants.

¶4. (C) Following the release of these recommendations, PolOff spoke with Sonia Pierre, an outspoken advocate for Dominicans of Haitian descent, about the proposal. Her first and most obvious concern is the retroactive application of law 285 to those born before its implementation. While she agrees that any country can make their own laws and constitution, she also has concerns over a country's inability or failure to apply the laws it does have. Under the Dominican constitution pre-law 285, those born to foreigners in the country who were not diplomats or in transit were Dominican nationals. The current proposals not only would create stateless individuals by revoking the Dominican nationality of those born to foreign parents who were illegal at the time, but it would also likely deny them a means of seeking a nationality through the proposed regulations.

¶5. (C) Pierre noted that in order for the proposed naturalizations to take place, these individuals will first need to show that they have a separate nationality from which to naturalize. She notes that because these people were born in the Dominican Republic and have or had Dominican birth registrations and possibly passports, they are either already Dominicans and should be recognized as such or they should be given Dominican nationality immediately without a need for naturalization. When Pierre raised her concerns about the naturalization requirements with the forum members, she was told that it was just an error and would be fixed. She was also told that the past documentation as Dominican nationals of those born to illegal foreign parents was an error;

SANTO DOMI 00000236 002 OF 003

meaning that there is no retro-active application of law 285.

International Forum

¶6. (SBU) The day following the plan's release from the summit, the GODR hosted the "International Forum of Administrators on Civil Registration, Identity and Migration," which was co-sponsored by the OAS. President Fernandez attended the opening event, but chose not to speak.

Franklin Almeyda Rancier, the Minister of Interior and Police, opened the event with a discussion on the numerous challenges that persons without documents face. He also noted that approximately 20 percent of the population, or 400,000 Dominicans, lack documents and that 80 percent of Haitians lack documentation as well. (Note: Almeyda did specify if these Haitians were in the DR or in Haiti, although the context implied that he was referring to all Haitians. The representative from Haiti vehemently objected, noting that Haiti's 2004 drive to register its citizens for the election resulted in nearly a complete registry during that time. It is more likely that this number relates to Haitians in the Dominican Republic).

¶7. (U) Julio Cesar Castanos Guzman, the President of the Central Elections Board (JCE), then spoke on documentation advances within the Dominican Republic. He stated that all people have a right to documentation and explained the DR's recent attempts to set up a system of registration immediately following births in hospitals. He then gave a history of the problems the country has faced with documentation and nationality, beginning with a 2004 International Court of Human Rights condemnation for registration failures and ending with the creation of the Foreigners' Book in 2007. Claiming that the Dominican people's strength comes from knowing who they are, "Yo se quien soy," he held the DR up as an example to other countries.

¶8. (U) Jose Octavio Bordon, the head of the OAS delegation highlighted the problems that undocumented people, and

especially children, have. He said that all children need to have documents for their basic rights such as justice, education, and protection from trafficking in persons.

¶9. (U) Daniel Cento, the Department's Special Organization Advisor to the OAS, spoke about several U.S. funded OAS projects on documentation and migration in the Western Hemisphere. He also spoke specifically to concerns about statelessness in the region and directly to Haitian migrants in the DR. Cento urged the governments of the DR and Haiti to work together to address this important issue, and commended the DR for hosting this forum due to the large number of its own citizens without documentation. He concluded by discussing U.S. procedures and policies on documentation and nationality.

¶10. (U) As the participants traveled towards Casa de Campo for the remainder of the conference, the position that the Dominican Republic would be taking during this event was still unclear. The first speaker, Roberto Rosario Marquez, the President of the Administrative Chamber of the JCE, spoke about the government's advances in registration and digitization of the information already registered. He then spoke about the registration of foreigners. He explained that the government has asked the migration department to begin collecting biometric data on those entering or leaving the country and assigning them a number. He hopes that this effort will not only assist migrants with identity documents, but also help to separate Migration from the Civil Registry of the JCE, which does not control documentation of foreigners. He claimed that some undocumented foreigners attempt to use the government's system of late registrations as a way to document their foreign children as Dominicans rather than registering them in their own countries. He also placed the number of undocumented Dominicans at 364,000.

¶11. (U) Almeyda then spoke on migration and the devolution of Haiti from one of the richest colonies to an exceptionally poor nation, before continuing to discuss how the government determines nationality. He explained that students are in transit, workers in agriculture are in transit, and finally, that those who are undocumented are also in transit and have no right to nationality. He continued by claiming (falsely in our view) that most Haitians neither request nor want Dominican Nationality, and that there are no stateless people

SANTO DOMI 00000236 003 OF 003

in the Dominican Republic. Rather, children born to foreigners take the nationality of their parents. Jose Angel Aquino Rodriguez, a JCE judge, clarified that Haitians come across the border to give birth and immediately return to Haiti. For that reason, they can use the Pink or Foreigners' Registration to receive a birth certificate from Haiti.

¶12. (U) Pelegrin Castillo Seman, a congressman with the Progressive National Force party (a coalition partner of President Fernandez), explained that the Dominican Republic is the most open nation in the world to the Haitians and that the country should not get more involved in the "Haitian problem" than it is already. He stated that law 285 only clarified the constitution on immigration and that the Supreme Court then ratified that position, but that it is not a change of position nor law. He concluded with his position that the United States does not accept this fact and that the U.S. and others seek to revoke it.

On the Sidelines

¶13. (C) In pull-aside conversations, PolOff was surprised to find a significant number of GODR participants who believe that many Haitian migrants are not residing permanently in the Dominican Republic. John Guiliani Valenzuela, a JCE judge, said that Almeyda believes that a majority of Haitians travel to Haiti in December and return to the DR in January, making that time a good one in which to implement a program

of collecting biometric information at the border. Guiliani also proposed that the USG work with the JCE to seek a reasonable compromise on the issue of migration.

¶14. (C) PolOff was also approached by Rosario and Joel Lantigua, the National Director of Elections, following the conference. They suggested a non-public dialogue on migration through unofficial channels. They would like to permit Post to review proposals they have on registration and migrant documentation to ensure that they are not taking any missteps. They proposed private meetings arranged through personal emails to discuss the mater.

Comment

¶15. (C) Post will engage with GODR officials to determine whether they are making a genuine attempt to find common ground on migration and especially Haitian matters. If such discussions were to become public, however, there would almost certainly be a large public outcry, spearheaded by Castillo.

¶16. (C) Although the recommendations of the summit are positive, they are non-binding and many details remain to be worked out. For example, a significant number of persons of Haitian descent living in the Dominican Republic may not be able to qualify for naturalization due to unemployment or inability to present identity documents from Haiti, especially if they were not born in Haiti. Post also has concerns that any plan of regularization or documentation of foreigners will be held up by a recent drive for a census of foreigners in the country before the GODR agrees to take any action. Post plans to continue closely following the progress and direction of these recommendations, and is cautiously optimistic that this could at a minimum lead to a more productive dialogue on migration issues.
BULLEN